PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item 21 I. D. #5118

ENERGY DIVISION **RESOLUTION E-3963**

December 1, 2005

R E S O L U T I O N

Resolution E-3963. Southern California Edison (SCE) requests approval of a new wind energy contract located on non-operating surplus land owned by SCE. SCE's Advice Letter (AL) 1914-E is conditionally approved, contingent upon SCE filing a Land Access Agreement with the Commission, which will require Commission approval under Section 851 of the California Public Utilities Code and PPM securing the necessary environmental clearances required pursuant to the California Environmental Quality Act (CEQA). .

By Advice Letter 1914-E Filed on August 31, 2005.

SUMMARY

The Commission conditionally approves SCE's request for approval of a new wind energy power purchase agreement (PPA) located on non-operating, surplus land owned by SCE.

SCE filed Advice Letter (AL) 1914-E on August 31, 2005, requesting Commission review and approval of a new wind energy PPA. Size, location, term, and expected generation for this facility are included below:

Seller	Generation Type	Minimum Size	Possible Expansion	Minimum Annual Energy	Maximum Annual Energy	Initial Online Date	Contract Term	Estimated Capacity Factor
PPM Energy, Inc.	Wind	22 MW	75 MW	67 GWh	229 GWh	12/2007	20 Yrs	35%

The wind energy facility will be developed on non-operating surplus land owned by SCE and leased by PPM Energy, Inc. (PPM) which is subject to environmental impact analysis. Confidential Appendix A discloses Exhibit B-1 of the PPA, including site, technology descriptions, and specific pricing and terms.

The proposed wind energy PPA is subject to the completion of an environmental impact analysis.

SCE and PPM are required to complete negotiations for a Land Access Agreement, which will require Commission approval under Section 851 of the California Public Utilities Code and may require Federal Energy Regulatory Commission (FERC) approval under Section 203 of the Federal Power Act. In order to develop the project, PPM will be required to obtain environmental clearances pursuant to the California Environmental Quality Act (CEQA).

SCE demonstrated that the PPA confers benefits to ratepayers. The PRG did not oppose approval of the PPA.

SCE made a sufficient showing that the proposed PPA confers benefits to ratepayers.

1. The negotiated PPA meets SCE's obligation to procure additional renewable power under a long-term contract.

2. The PPA confers a competitive all-in energy price at or below the Renewable Portfolio Standards (RPS) interim reasonableness benchmark, adopted in D.02-08-071 of $53.70 per MWh, for the term of the contract.[1]

3. The PPA will result in a minimum of 22 MW and a maximum of 75 MW of additional renewable energy that SCE can apply to its RPS annual procurement target.

4. SCE will obtain all the environmental attributes for the energy it purchases from these facilities.

The members of SCE's Procurement Review Group (PRG) did not oppose the approval of this PPA.

AL 1914-E is approved effective today.

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[1] Utilities are not required to procure all resources that offer prices of less than 5.37 cents per kWh (the interim benchmark). The interim benchmark was set for purposes of determining per se reasonableness for cost recovery purposes, but does not require that utilities acquire all resources at that price. (D.02-08-071, pg. 34)

SCE requests that AL 1914-E be effective immediately. There were no protests to this AL. This resolution conditionally approves AL 1914-E effective today, subject to the conditions described on page 1 of this resolution.

BACKGROUND

The RPS Program requires each utility to increase the amount of renewable energy in its portfolio, subject to requirements specified by the Legislature and the Commission.
The RPS Program, created by SB 1078 (Statutes of 2002, Chapter 516), requires each utility to increase the amount of renewable energy in its portfolio to 20 percent by 2017, increasing by a minimum of one percent per year. The Commission's first Energy Action Plan (EAP) called for acceleration of this goal to reach 20 percent by 2010 and EAP II has identified steps to achieve a 33 percent goal by 2020. R.04-04-026 encourages the utilities to procure cost-effective renewable generation in excess of their annual procurement target (APT), in order to make progress towards the goal expressed in the EAP.

In order for the output of a renewable resource to count toward a utility's RPS requirements, the resource must meet the requirements of an "eligible renewable energy resource" under the definitions of the program.[2] Wind energy facilities are eligible renewable energy resources.

The Commission developed interim renewable procurement guidelines prior to full implementation of the Renewables Portfolio Standard (RPS) Program.
D.02-08-071 authorized the utilities to enter into procurement contracts between the effective date of the Decision and January 1, 2003. The Decision adopted an interim reasonableness benchmark of 5.37 cents per kilowatt-hour for procurement contracts.

On August 13, 2003, the Assigned Commissioner in Rulemaking (R.) 01-10-024 issued a ruling, "Assigned Commissioner's Ruling Specifying Criteria for Interim

[2] Public Utilities Code Section 399.13 states; "The Energy Commission shall do the following: (a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (a) of Section 399.12."

Renewable Energy Solicitations", which specified criteria for any further renewable energy procurement by the utilities prior to full RPS implementation. The proposed PPA was procured pursuant to the authority granted by the August 2003 ACR. Due to the negotiation process, the proposed PPA was not filed with the Commission until August 31, 2005.

The August 2003 Assigned Commissioner's Ruling (ACR) set forth general interim renewable procurement requirements:

1. A utility must abide by the terms of the Commission's first RPS implementation Decision (D.03-06-071).
2. Utilities may engage in bilateral negotiations or may issue a competitive solicitation (request for offer (RFO)) to receive bids.
3. Issuance of an interim RFO by a utility does not constitute filing of a RPS procurement plan under the terms of D.03-06-071.
4. The utilities are allowed to "roll over" any under-procurement in 2003 into the Annual Procurement Target (APT)[3] for 2004 without penalty. A decision not to issue an RFO prior to full RPS implementation will not waive this immunity. Conversely, any contract signed as a result of a bilateral negotiation or an RFO, and approved by the Commission, should count toward the APT.
5. Following PRG member review of any proposed contracts, the utility may submit those contracts for Commission approval via Advice Letter.

The August 2003 ACR also set forth criteria for interim procurement:

1. Any renewable procurement in the interim period must not anticipate the use of any Supplemental Energy Payments (SEPs) to be awarded by the California Energy Commission (CEC) pursuant to Public Utilities Code Sec. 383.5(d).
2. A solicitation must not anticipate the creation of the Market Price Referent (MPR) under development in the RPS process. Internal market benchmarks developed by the utility for bid evaluation are appropriate for preliminary

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[3] The APT is the minimum amount of renewable generation the utility must procure each year to meet its RPS requirement, subject to the flexible compliance mechanisms authorized in D.03-06-071.

evaluation, but should not be made public in the RFO or at any point in the solicitation process, and should not be referred to as the MPR.
3. Any internal benchmarks and details of their development should be provided to the Procurement Review Group when the Preliminary Evaluation of submitted bids is performed and to the Commission when any proposed contracts are ultimately submitted for approval.
4. Any RFO must clearly stipulate up front precisely how the utility will calculate adders for transmission upgrades and integration costs, and how the utility will assign capacity values and payments to as-available resources.

The Commission granted SCE's request for an extension of the 2003 interim renewable procurement authority.
D.04-12-048, Ordering Paragraph 21 adopted a deadline of February 8, 2005, after which the interim authority would expire. SCE sought Commission approval for an extension of the interim authority in February of 2005 and was granted an extension to March 8, 2005.

SCE states that as of March 8, SCE was in the process of negotiating the PPA for the subject wind energy project. In a letter dated August 2, 2005, SCE requested an extension of the March 8 interim authority filing deadline. The Commission's Executive Director granted the extension of the interim authority on August 5, 2005. The new filing deadline was extended to August 31, 2005, the date of filing for AL 1914-E.

NOTICE

Notice of AL 1914-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

There were no protests to this AL.

DISCUSSION

Energy Division examined SCE's request in AL 1914-E on multiple grounds:

- contingencies contained in the contract;
- value to ratepayers;
- reasonableness of the contract;
- fulfillment of SCE's requirements under the Renewable Portfolio Standards (RPS);
- PRG involvement.

The Energy Division found that there are tangible benefits conferred to ratepayers as a result of the subject wind energy PPA which are detailed below.

The proposed PPA involves the development of non-operational surplus land owned by SCE.
SCE's surplus land being utilized for the development of the subject wind energy facility is known as Areas 1, 3, and 5. Confidential Appendix A includes a more detailed land description as well as an outline of the specific terms and pricing of the PPA. The PPA allows for a minimum of 22 MW to be developed on Areas 1 and 5 and an option to build on Area 3 to a minimum of 15 MWs. Maximum project capacity utilizing all areas will be 75 MWs.

The wind energy PPA was the result of an interim Request for Offer (RFO) initiated by SCE in August of 2003.
The subject wind energy PPA was procured as a result of an interim Renewable Portfolio Standards RFO initiated by SCE in August of 2003 utilizing the RPS interim procurement authority detailed on page 3 and 4 of this resolution. Due to the negotiation process, the subject wind energy contract was not filed with the Commission until August 31, 2005.

The proposed contracted all-in energy price confers cost savings for ratepayers
As demonstrated in Confidential Appendix A, the proposed contract pricing is beneficial for ratepayers and is priced at or below the interim reasonableness benchmark established in D.02-08-071 of $53.70 per MWh.

Portions of the project that are in commercial operation by December 31, 2007 will be eligible to receive the Federal Production Tax Credit.

In 1992 the Energy Policy Act was signed into law and included enactment of a Production Tax Credit (PTC) under Section 45 of the Internal Revenue Code of 1986. This credit is available to corporate entities building new and repowering existing renewable energy production facilities such as solar, biomass, wood chip, geothermal, and wind electric power production plants. In the case of repowered facilities, PTC awards are based on the incremental energy generated from the repower. The PTC was extended in the recent Federal Energy Policy Act of 2005. The credit is available to new and repowered renewable energy facilities in commercial service after enactment of the law, and prior to the latest deadline, December 31, 2007.

A key benefit of the PTC is that it provides substantial incentive for wind turbine manufacturers to improve the reliability and efficiency of their equipment since the PTC is provided only for electric power actually produced and transmitted.

SCE has met the requirements outlined in the 2003 interim procurement ACR.
SCE has complied with the directives detailed in the Assigned Commissioner's Ruling dated August 13, 2003 with respect to renewable energy procurement prior to full RPS implementation. Specifically, SCE issued a competitive Request for Offer for new renewable energy projects of which the proposed PPA was a result. The proposed PPA is in accord with the Commission's preference for long-term renewable energy contracts of more than 10 years. The proposed PPA is beneficial to ratepayers with an all-in contracted energy price at or below the interim reasonableness benchmark. The proposed PPA was presented to, and was not opposed by, SCE's procurement review group.

SCE claims all "Environmental Attributes" associated with the project's output.
The PPA explicitly conveys any environmental attributes associated with the output from the facility to SCE. Thus, SCE retains all environmental attributes necessary to count the output of the resource toward its RPS requirements.

The proposed PPA is in accord with the Commission's policy preference for increasing renewable energy procurement as a percentage of utility sales.
SCE states that the subject wind energy PPA, if developed at the minimum level represents approximately .09% of its 2004 retail sales and, if expanded to the full expansion potential, would achieve .3% of 2004 retail sales. Currently the PPA is written to allow for a minimum of 22 MWs to be developed in SCE Areas 1 and 5

by December 31, 2007, with a potential to increase the project capacity to a maximum of 75 MWs in all relevant areas (1, 3, and 5). Included within the maximum project capacity of 75 MWs, a minimum of 15 MWs may be developed at a later date as a result of the subject contract if agreed to within a specified time frame. Any additional generation up to the maximum of 75 MW as a result of this PPA will adhere to the same terms and pricing of the initial 22 MWs

Approval of this advice letter does not imply a broader policy preference for attaching future development options to a limited energy procurement contract.
Currently the PPA is written to allow for a minimum of 22 MWs to be developed in SCE Areas 1 and 5 by December 31, 2007, with a potential to increase the project capacity to a maximum of 75 MWs in all relevant areas (1, 3, and 5). Included in the maximum project capacity, a minimum of 15 MWs may be developed at a later date as a result of the subject contract if agreed to within a specified time frame.

Due to the specific benefits conferred to ratepayers as a result of the PPA and detailed in this resolution, AL 1914-E is approved. Approval of this AL in no way implies a broader policy preference for the practice of attaching future development options to a limited electric procurement contract. The Commission will evaluate and make determinations concerning future procurement contracts on a case-by-case basis.

SCE's Procurement Review Group had the opportunity to review the PPA.
In D. 02-08-071, the Commission required each utility to establish a "Procurement Review Group" (PRG) whose members, subject to an appropriate non-disclosure agreement, would have the right to consult with the utilities and review the details of:

1. Overall transitional procurement strategy;
2. Proposed procurement processes including, but not limited to, RFO; and
3. Proposed procurement contracts before any of the contracts are submitted to the Commission for expedited review.

The PRG for SCE consists of: California Department of Water Resources, California Energy Commission, the Commission's Energy Division, Natural Resources Defense Council, the Union of Concerned Scientists, Office of

Ratepayer Advocates (ORA), and The Utility Reform Network (TURN). SCE briefed its PRG regarding this wind energy contract on August 4, 2005.

The PRG did not oppose the proposed contract.
SCE briefed its PRG regarding this contract on August 4, 2005. The PRG did not oppose this PPA. We clarify, however, that Energy Division reserved its conclusions for review and recommendation on the PPA to the resolution process. Energy Division reviewed the PPA independently, and allowed for a full protest period before concluding its analysis. No protests to AL 1914-E were filed.

The Commission may vote to make public certain confidential information if it is deemed in the public interest.
Certain details of the PPA were filed by SCE under confidential seal. Attachments to this resolution have been redacted due to the confidential nature of SCE's filing. However, the Commission may vote to unredact the Attachments in full or in part.

Energy Division recommends that all material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C remain confidential upon Commission approval of this resolution.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding:

> The 30-day period may be reduced or waived in an unforeseen emergency situation, upon the stipulation of all parties in the proceeding, for an uncontested matter in which the decision grants the relief requested, or for an order seeking temporary injunctive relief.

All parties in the proceeding have stipulated to reduce the 30-day comment period required by PU Code section 311(g)(1) to 15 days. Accordingly, this matter will be placed on the first Commission's agenda on the mailing date of this draft resolution. By stipulation of all parties, comments shall be filed no later than 13 days following the mailing of this draft resolution. No reply comments will be filed.

FINDINGS

1. SCE filed Advice Letter 1914-E on August 31, 2005, requesting approval of a new wind energy contract.

2. The PPA will allow for a minimum of 22 MWs of new renewable energy procurement to be in commercial operation by December 31, 2007 and an additional 15 MW or more of wind energy development at a future date, if a corresponding agreement is reached by SCE and PPM within a specified time frame. The maximum project capacity for the PPA is 75 MWs.

3. Any energy procurement between PPM and SCE as a result of this PPA is subject to the same pricing and terms explicitly identified in the PPA for the initial 22 MWs of project capacity and included in confidential Attachment A of this resolution.

4. The Commission's approval of this PPA does not imply a broader policy preference for the practice of attaching future development options to a limited electric procurement contract. The Commission will evaluate and make determinations concerning future procurement contracts on a case-by-case basis.

5. The PPA is in accord with the Commission's policy preference for increasing renewable energy procurement as a percentage of utility sales.

6. The RPS Program requires each utility, including SCE, to increase the amount of renewable energy in its portfolio to 20 percent of retail sales by 2017, increasing by a minimum of one percent per year. The Commission's first Energy Action Plan (EAP) called for acceleration of this goal to reach 20 percent by 2010 and EAP II has identified steps to achieve a 33 percent goal by 2020.

7. Any electric energy sold or dedicated to SCE pursuant to the PPA constitutes procurement by SCE from an eligible renewable energy resource (ERR) for

the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Program or its successor.

8. All Procurement counts in full, subject to CEC determination of eligibility, towards any annual procurement target established by the RPS Program or its successor.

9. All Procurement counts in full, subject to CEC determination of eligibility, towards the requirement in the RPS Program that SCE procure 20% of its retail sales from ERRs by 2010, pursuant to the Energy Action Plan and most recently reaffirmed in Decision 05-07-039.

10. The Commission required each utility to establish a Procurement Review Group (PRG) to review the utilities' procurement needs and strategy, proposed procurement process, and selected contracts.

11. The PRG does not oppose the proposed PPA.

12. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C should remain confidential.

13. The PPA provides value to SCE's ratepayers.

14. The PPA, and SCE's entry into the PPA, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the PPA.

15. AL 1914-E was not protested.

16. AL 1914-E should be approved.

<u>THEREFORE IT IS ORDERED THAT:</u>

1. The request of the Southern California Edison for Commission approval of a new wind energy contract, as requested in Advice Letter AL 1914-E is granted contingent upon SCE filing a Land Access Agreement, which will require

Commission approval under Section 851 of the California Public Utilities Code and PPM securing the necessary environmental clearances required pursuant to the California Environmental Quality Act (CEQA).

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 1, 2005; the following Commissioners voting favorably thereon:

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STEVE LARSON
Executive Director

APPENDIX A

REDACTED